

The Honorable Ricardo S. Martinez

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
MANUEL GARCIA HERNANDEZ
Defendant.

NO. CR24-087 RSM

DISCOVERY PROTECTIVE ORDER

MANUEL GARCIA HERNANDEZ,
Defendant.

This matter, having come to the Court's attention on the parties' joint motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

1. Protected Material. For purposes of this Order, “Protected Materials” shall include (1) Grand Jury testimony; (2) witness statements; (3) tax information; (4) financial information; (5) subscriber information (including phone and utility subscriber information for third parties); and (6) other personal identifying information (“PII”)¹ obtained during

¹ “PII” includes, but is not necessarily limited to, the information identified in Fed. R. Crim. P. 49.1(a) and includes full names, dates of birth, Social Security numbers (or other identification information), financial account information (including account numbers), tax information, driver’s license numbers, addresses, telephone numbers, locations of residences or employment, medical records, school records, juvenile criminal records, and other confidential information. The

1 the investigation, either via Grand Jury subpoena and/or during the execution of search
 2 warrants, including but not limited to personal information about defendant and third
 3 parties (such as photographs, including sexually suggestive photographs of family
 4 members, defendant, and/or witnesses) and other sensitive information obtained from the
 5 search of social media, cellular telephones, and other digital devices seized during the
 6 investigation (collectively, the “Protected Material”). All financial records (including
 7 phone, utility, and financial information for third parties), federal tax records, cellular
 8 telephone downloads, Grand Jury transcripts, and summaries of financial records provided
 9 during discovery will be considered Protected Material without further designation by the
 10 Government.

11 2. Other information believed by the Government to be Protected Material will
 12 be so designated by the Government. Said material may include, but is not limited to,
 13 information related to witnesses and third parties, criminal history reports, and related
 14 *Giglio* impeachment materials.

15 3. **Production of Protected Material to the Defense.** The United States will
 16 make available copies of the Protected Materials, including those filed under seal directly
 17 to defense counsel to comply with the government’s discovery obligations, and/or to a
 18 Coordinating Discovery Attorney, should one be appointed. Possession of copies of
 19 Protected Material is limited to attorneys of record, investigators, paralegals, law clerks,
 0 experts, and assistants for the attorneys of record, the Coordinating Discovery Attorney,
 1 should one be appointed, and his/her staff (hereinafter collectively referred to as “members
 2 of the defense team”). Further, the attorneys of record are required to provide, prior to
 3 disseminating any copies of the Protected or Sensitive Materials to members of the defense
 4 team, a copy of this Protective Order to members of the defense team and obtain written
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6 government has endeavored to redact PII as appropriate, but the parties acknowledge and agree
 7 that this will not always be possible, and that in some instances un-redacted PII may be necessary
 to the defense.

1 consent by members of the defense teams of their acknowledgment to be bound by the
2 terms and conditions of this Protective Order. The written consent need not be disclosed or
3 produced to the United States unless requested by the Assistant United States Attorney and
4 ordered by the Court.

5 **4. Review of Protected Material by Defendant.** The attorney(s) of record and
6 members of the defense team may share and review the Protected Material with Defendant.
7 If Defendant is in custody at the Federal Detention Center (FDC), he/she will be permitted
8 to review the Protected Material, consistent with the regulations established by the BOP,
9 with or without counsel, in a controlled environment at the Federal Detention Center
10 (FDC), but will be prohibited from printing out, copying, or disseminating the discovery.
11 If Defendant is on pretrial release, he/she will be permitted to review the Protected Material
12 at the offices of his/her counsel, but will be prohibited from printing out, copying, or
13 disseminating the discovery.

14 **5. Limits on Dissemination of Protected Materials.** The attorney(s) of record
15 and members of the defense team acknowledge that providing copies of the Protected
16 Material to Defendant and other persons is prohibited and agree not to duplicate or provide
17 copies of the Protected Material to Defendant and other persons. This order does not limit
18 employees of the United States Attorney's Office for the Western District of Washington
19 from disclosing the Protected Material to members of the United States Attorney's Office,
20 federal law enforcement agencies, witnesses, and the Court and defense as necessary to
21 comply with the government's discovery obligations.

22 **6. Future Production of Additional Protected Materials.** Additional types of
23 discovery items may be deemed by the parties to constitute Protected Material upon
24 agreement, or (if no agreement can be reached) by further order of the Court.

25 **7. No Waiver.** Nothing in this order should be construed as imposing any
26 substantive discovery obligations on the government that are different from those imposed
27 by case law and Rule 16 of the Federal Rules of Criminal Procedure. The failure to

1 designate any materials as provided in paragraph 2 shall not constitute a waiver of a party's
2 assertion that the materials are covered by this Protective Order.

3 **8. Use of Protected Material in Court.** Any Protected or Sensitive Material
4 that is filed with the Court in connection with pre-trial motions, trial, or other matter before
5 this Court, shall be filed under seal and shall remain sealed until otherwise ordered by this
6 Court. This does not entitle either party to seal their filings as a matter of course. The parties
7 are required to comply in all respects with the relevant local and federal rules of criminal
8 procedure pertaining to the sealing of court documents.

9 **9. Non-Termination.** The provisions of this Order shall not terminate at the
10 conclusion of this prosecution. Furthermore, at the close of this case, defense counsel shall
11 return the Protected Material, including all copies of the Protected Material, to the office
12 of the United States Attorney, or otherwise certify that the material has been destroyed.

13 **10. Violation of Order.** Any person who willfully violates this order may be
14 held in contempt of court and may be subject to monetary or other sanctions as deemed
15 appropriate by this Court.

16 **11. Modification of Order.** Nothing in this Stipulation shall prevent any party
17 from seeking modification of this Protective Order or from objecting to discovery that it
18 believes to be otherwise improper. The parties agree that in the event that compliance with
19 this Order makes it difficult for defense counsel to adhere to their Sixth Amendment
20 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel shall
21 bring any concerns about the terms of the Order to the attention of the government. The
22 parties shall then meet and confer with the intention of finding a mutually acceptable
23 solution. In the event that the parties cannot reach such a solution, defense counsel shall
24 have the right to bring any concerns about the scope or terms of the Order to the attention
25 of the Court by way of a motion.

26 **12. Agreement to Provide Copies of Protected Material to Defendant.** Upon
27 agreement of counsel for the Government, members of a defense team may provide copies

1 of specific Protected Material, or redacted versions of such material, to Defendant. When
 2 seeking the Government's agreement to give such a copy to Defendant, members of the
 3 defense team will identify with reasonable particularity, including (where available) the
 4 specific bates numbered pages and or recording descriptions, the specific material defense
 5 counsel proposes to give to Defendant. Unless expressly stated otherwise by the
 6 Government, copies of Protected Material to be provided to Defendant will continue to be
 7 Protected Material subject to all of the protections of the Court's Order, with the sole
 8 exception that a copy can be given only to Defendant (and not shared with anyone else
 9 outside the defense team). If counsel for the Government and counsel for Defendant cannot
 10 reach agreement on whether particular portions of the Protected Material or redacted
 11 versions of Protected Material should be given to Defendant under these conditions,
 12 defense counsel may raise the issue with the Court by way of a motion.

13. **No Ruling on Discoverability or Admissibility.** This Protective Order does
 14 not constitute a ruling on the question of whether any particular material is properly
 15 discoverable or admissible and does not constitute any ruling on any potential objection to
 16 the discoverability of any material.

17. **No Ruling on Timing of Production.** This Protective Order does not require
 18 the Government to provide particular discovery at a time or in a fashion inconsistent with
 19 applicable law.

20. **Addition of Defendants after Entry of Order.** This Protective Order will
 21 cover additional Defendants in this case so long as they agree to be bound by the terms of
 22 this Protective Order and so indicate that consent by the execution of a supplemental
 23 stipulation, which shall be filed as an addendum or supplement to this Protective Order.

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1 The Clerk of the Court is directed to provide a filed copy of this Protective Order to
2 all counsel of record.

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4 DATED this 23rd day of August, 2024.

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HON. RICARDO S. MARTINEZ
UNITED STATES DISTRICT COURT JUDGE

Presented by:

/s/ *Joseph C. Silvio*
JOSEPH C. SILVIO
C. ANDREW COLASURDO
Assistant United States Attorneys